

**WATER RIGHTS - INFORMAL ADJUDICATIONS**

2009 GENERAL SESSION

STATE OF UTAH

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**LONG TITLE****General Description:**

This bill amends a section relating to the judicial review of a state engineer's decision in an informal adjudication.

**Highlighted Provisions:**

This bill:

- ▶ allows the court to consider failure to prosecute a suit to final judgment within a certain time period lack of diligence, rather than requiring the court to dismiss the action; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**73-3-15**, as last amended by Laws of Utah 1992, Chapter 127

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **73-3-15** is amended to read:

**73-3-15. Dismissal of action for review of informal adjudicative proceedings.**

(1) An action to review a decision of the state engineer from an informal adjudicative proceeding may be dismissed upon the application of any of the parties upon the grounds provided in ~~[Rule 41 of the]~~ Utah Rules of Civil Procedure, Rule 41 for:

(a) the dismissal of actions generally; and ~~[for]~~

(b) failure to prosecute ~~[such]~~ the action with diligence.

(2) ~~[(a)]~~ For the purpose of this section, failure to prosecute a suit to ~~[final judgment]~~ trial within two years after it is filed~~[, or, if an appeal is taken from a district court judgment]~~

33 ~~within three years after the filing of the suit, constitutes]~~ gives rise to a rebuttable presumption  
34 of a lack of diligence.

35 ~~[(b) A court shall dismiss those suits after ten days' notice by regular mail to the~~  
36 ~~plaintiff.]~~

37 (3) In evaluating the rebuttable presumption, the court shall consider the totality of the  
38 circumstances.